

IPSWICH NOISE CONTROL BY-LAW

Section 1 Purpose

This Bylaw is adopted to ensure the residents of the Town of Ipswich an environment free of excessive sound that may jeopardize or degrade their quality of life. This Bylaw shall be applied to control all noise originating within the geographical limits of the Town of Ipswich.

Section 2 Definitions

All terminology used in this By-law, but not defined below, shall be used with the meanings ascribed to such terms in the applicable standards of the American National Standards Institute ("ANSI") or its successor bodies.

- A. Construction: Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition for, or of, public or private rights-of-way, structures, utilities, or similar property.
- B. Demolition: Any dismantling, intentional destruction of, or removal of, structures, utilities, public or private rights-of-way surfaces or similar property.
- C. Emergency Work: Any work performed for the purpose of preventing or alleviating the physical harm to persons or property, which requires immediate action.
- D. Enforcement Official: Any Town official having authority to enforce this By-law as provided in Section 3.C.
- E. Legal Holiday: Any day designated as a legal holiday under Federal or Massachusetts State Law.
- F. Noise Disturbance: Any sound which may (a) disturb or annoy reasonable persons of normal sensitivities; (b) cause, or tend to cause, an adverse effect on the public health and welfare; (c) endangers or injures persons; or (d) endangers or injures real or personal property.
- G. Person: Any individual, association, partnership, joint venture, corporation or other form of legal entity. H. Plainly Audible Sound: Sound as to which the information content is unambiguously communicated to the listener including, without limitation, understandable speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehension of musical rhythms, without the aid of any listening device.
- I. Power Tool: Any device powered mechanically, by electricity, by gasoline, by diesel or any other fuel, which is intended to be used, or is actually used, for functions including, without limitation, cutting, nailing, stapling, sawing, vacuuming or drilling.
- J. Public Right-of-Way: Any highway, boulevard, street, avenue, lane, sidewalk, or similar place, which is owned or controlled by a government agency.

K. Public Property: Any real property, including structures thereon, which are owned or controlled by a government entity.

L. Residential District: Any area designated as a Residential District in the Town of Ipswich Zoning By-law.

M. Weekday: Any day from Monday through Friday that is not a Legal Holiday.

Section 3 Permitting and Enforcement of Ordinance

A For the purpose of this By-law a Noise Permit shall be obtained with the Town of Ipswich's Building Office for all purposes which have not been specified in Section 6: Specific Activities or listed in Section 7: Exemptions and Permits.

B. For the purpose of this By-law the Building Commissioner of the Town of Ipswich is hereby charged with the granting of all Noise Permits, there shall be no permit fee for said permit application. Noise Permit applications shall be acted upon within fourteen (14) business days of permit filing with the Building Department. If the Building Commissioner determines that the noise permit application comply with all applicable provisions of this By-law; or if not acted upon within fourteen (14) business days shall be deemed approved.

C. Enforcement Officials. This By-law shall be enforced by the Chief of Police, the Building Commissioner and/or Local Building Official. Designees of the Chief of Police shall include any Ipswich Police Officer.

D. Penalties for Violation. Violations of this By-law shall be punishable by fine in accordance with the following schedule:

Offense	Fine
First	\$ 75
Second	\$ 150
Third and Subsequent	\$ 300

Violations resulting from sound emanating from a particular parcel of property will be assessed against the person controlling said property at the time of the violation, regardless of said person's legal status as owner, lessor, tenant-at-will, and licensee or otherwise. Nothing contained in this Bylaw shall prohibit an Enforcement Officer from giving a warning in lieu of a fine if, in the Official's discretion, a warning is appropriate under the circumstances.

E. Fines. In assessing fines for violations of this By-law, the Enforcement Official shall follow the procedure set forth in M.G.L. c. 40, § 21D.

Section 4 Duties and Responsibilities of Town Boards and Officials

A. Town programs and activities. All Town Departments, Boards and Officials shall carry out their programs and activities in a manner reasonably consistent with this Bylaw.

B. Project review and approval. All Town Departments, Boards and Officials having responsibility for the review and approval of new projects or activities', or changes to existing projects that result, or may result, in the production of sound shall, to the extent reasonably feasible under the circumstances, require compliance with the provisions of this By-law as a condition of approval. This By-law is not intended to require any Town Department, Board or Official to apply a more restrictive standard for the approval of any project or activity, or change to any existing projects, than has been applied prior to the By-law's adoption.

C. Projects and developments that have received permitting and approval by all Town Departments, Boards and Officials shall be held to noise provision of said permit.

Section 5 Noise Disturbance Prohibited

A. No person shall make, continue, or cause to be made or continued, any noise disturbance. Unamplified, non-commercial public speaking and public assembly activities conducted at conversational voice levels on any public property or public right-of-way shall be exempt from the operation of this section if such sound is not plainly audible beyond 100 feet or does not infringe the legitimate rights of others.

B. The facts required to establish a noise disturbance shall be identical to those required to establish a disturbance of peace under common law (and punishable under M.G.L. c. 272 § 53). Violations of this By-law need only be proven by a preponderance of the evidence.

Section 6 Specific Activities

The following activities are permitted as set forth below:

A. Construction, Demolition and Commercial Landscaping Activity are allowed to operate or permit the operation of any tools or equipment used in construction, demolition or commercial landscaping work in a Residential District between the hours of 7:00 a.m. and 7:00 p.m. on Weekdays (Monday thru Friday) or between the hours of 8:00 a.m. and 7:00 p.m. on any other day.

B. Domestic Power Tools. Persons shall operate, or permit the operation of, any power tool or any garden tool, leaf blower, chain saw or similar device powered mechanically, by electricity, gasoline, diesel or other fuel, outdoors in a Residential District between the hours of 7:00 a.m. and 9:00 p.m.

C. Dumpsters and Trash Receptacles. Persons/Businesses shall empty dumpsters or similar trash receptacles between the hours of 6:00 a.m. and 8:00 p.m. on Weekdays (Monday-Friday) or between the hours of 7:00 a.m. and 8:00 p.m. on any other day.

Section 7 Exemptions and Permits

The following uses and activities shall be exempt from the provisions of this By-law:

1. Any law enforcement motor vehicle in the performance of law enforcement duties.
2. Any law enforcement, public safety training facility to include the Ipswich Police Firing Range.
3. Any fire apparatus, ambulance, rescue, public works or emergency response vehicle creating sound in the performance of public safety responsibilities.
4. Any vehicle in the performance of emergency work.
5. Public address systems used at public events in a manner approved by any Town Board, Department or Official having authority over said use.
6. Safety signals, warning devices, emergency pressure relief valves and similar devices during and in relation to public emergencies.
7. Parades, music festivals, public gatherings, and events for which the permit granting authority has granted a noise permit.
8. Bells, chimes or carillons, or amplified, recorded, or other electronic substitution while being used in conjunction with religious services or to denote time intervals.
9. Snow removal from public or private parking lots, roads, driveways, sidewalks and other surfaces traveled by vehicles or pedestrians.
10. Activities of temporary duration during a time of emergency conducted by a public utility company to repair or maintain public utility infrastructure.
11. Construction activity under a valid noise permit issued by the Building Commissioner under section 7 or 15 of Chapter 136 of the Massachusetts General Laws, or by any Town Board or Department having regulatory authority over construction activity.
12. Any vehicle utilizing an amplified communications system operated by a highway maintenance, water department, or public utilities worker acting in the performance of his or her responsibilities.
13. Any noise originating from a preexisting municipal structure prior to the adoption of this Bylaw which serves and protects the general health safety and welfare of an Ipswich residence.
14. This Bylaw shall not prevent the use of any mechanical device or equipment used to mitigate emergency conditions or an event by any persons, homeowners, business owner, or Town department.

15. Any activity to the extent the regulation thereof has been preempted by State or Federal Laws or Regulations.

Section 8 Appeal

Appeal of any citation for a violation of this By-law shall be made to the District Court or other Court of competent jurisdiction in accordance with the provisions of M.G.L. c. 40, § 21D.

Section 9 Severability

If any of the provisions of this By-law are held to be invalid by any Court of competent jurisdiction, the remaining provisions shall remain in full force and effect.